



MHCC050061942022

**IN THE COURT OF SESSIONS AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI
ANTICIPATORY BAIL APPLICATION NO.1860 OF 2022**

IN

(Crime No.54 of 2020 of Kasturba Marg Police Station)

Bharatkumar Vitthal Tambile,
Aged : 52 years, Occ :Socialworker,
Indian Inhabitant,
Residing at Matoshri Sadan,
Banglow No.3, MHADA Colony,
Mulund(E), Mumbai 400 081.

..Applicant

Vs

The State of Maharashtra
(Through Inspector Incharge,
Kasturba Marg Police Station
(Borivali)
Vide C.R.No.54 of 2022)

..Respondent

Ld. Advocate Shri. Vaibhav Ugle, for the applicant.
Ld. APP Smt. Poornima Chauhan, for the State.

**CORAM : H.H.J. ADDITIONAL SESSIONS JUDGE,
SHRI A.R.QURESHI,
COURT ROOM NO.06.**

DATE : 29th NOVEMBER, 2022

ORAL ORDER

1. Applicant namely “Bharatkumar Vitthal Tambile,” had moved

this application u/s.438 of Cr.P.C. for seeking direction to release him on anticipatory bail apprehending arrest in connection with crime no.54 of 2020 for the offences punishable under section 409, 420, 201 & 120(b) of Indian Penal Code, registered with Kasturba Marg Police Station, Mumbai.

3. Read application, perused report of I.O. vide Exh.2, which is say of Respondent/State. Further perused copy of the FIR and the papers/ documents filed below Index i.e. Copy of the registration certificate, copy of notice U/sec. 41(1) of Cr. P.C.

4. Heard argument of Learned counsel for the applicant Shri. Vaibhav Ugle and Learned APP Smt. Poornima Chauhan for the State as well as I.O. API Shri. Jagdale at Kasturba Marg Police Station at length.

5. The learned Counsel for the applicant submits that applicant is a Secretary of the said Institute. The applicant is innocent and not committed any offence and he is falsely implicated in this case and submits to release the applicant on anticipatory bail in the event of arrest.

6. Learned APP Smt. Poornima Chauhan for the respondent/state has strongly opposed this application and submits that applicant/accused had misused the fund/amount of the Government fund near about Rs.6,47,500/- The allegations are be serious one. She further submits that thorough investigation is needed, physical custody of the applicant is needed. Custodial interrogation is also needed. Without physical custody of the applicant investigation is not at all possible as the offences are of the cheating, misuse of funds provided to the Institution i.e. Government Fund. As such the Custodial interrogation of the applicant and physical custody of the applicant is needed. Hence, she strongly opposed this application and submits to reject this bail

application.

7. In response to the arguments of prosecution for the applicant and Learned APP submits that applicant is ready to co-operate and assist the IO in investigation as and when required. Hence, physical custody of the applicant for investigation is not required. Therefore, he submits to allow the application.

8. I have carefully perused the copy of FIR as well as the report of I.O. which is the say of respondent/State. The report of the I.O. particularly the reason No.3 prima facie shows that the commission of inquiry consisting five members have recommended and held that there is no record of imparting training, therefore, it cannot be said that the amount of this fund is properly utilised. Hence, it has to be held that the amount of Rs.6,47,500/-of this scheme is misappropriated by contractor and project officer concerned. As such allegations are of serious nature as per recommendation of the commission of enquiry. The offences has been registered against the applicant and other co-accused. In such circumstances, I found prima facie that physical custody of the applicant is needed. Custodial interrogation is also needed. As such no prima facie case is made out to release the applicant on anticipatory bail. Hence, application deserves to be rejected. Hence, I proceed to pass the following order.

ORDER

1. Anticipatory Bail Application No.1860 of 2022 u/sec.438 of Cr.P.C. as filed by applicant **Bharatkumar Vitthal Tambile**, in Crime no.54 of 2020 of the offences u/s.409, 420, 201 & 120(b) of Indian Penal Code, registered with Kasturba Marg Police station, Mumbai is hereby rejected and disposed of accordingly.

2. Order pronounced in Open Court.
3. Proceeding closed.
4. Ad interim order if any is hereby vacated.

Date 29/11/2022

(A. R. Qureshi)
Additional Sessions Judge,
Borivali Div.,Dindoshi, Mumbai

Dictated on : 29/11/2022
Transcribed on : 29/11/2022
Corrected on : 29/11/2022
Signed on : 29/11/2022

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”

Date : 29/11/2022

Time : 6.05 P.M.

UPLOAD DATE AND TIME

Ms. S.S.Chudji

(Stenographer Grade-I)

NAME OF STENOGRAPHER

Name of the Judge (with Court room no.)	HHJ A. R. Qureshi (C.R.No.6)
Date of Pronouncement of JUDGMENT/ORDER	29/11/2022
JUDGMENT/ORDER signed by P.O. on	29/11/2022
JUDGMENT/ORDER uploaded on	29/11/2022